

IN THE DISTRICT COURT OF MURRAY COUNTY
STATE OF OKLAHOMA

PATRICIA DARLENE HODGE)

Plaintiff,)

v.)

Case No. CJ-80-59

FORD MOTOR COMPANY,)

BILLINGSLEY FORD OF)

ARDMORE)

BILLINGLSEY FORD, LLC,)

BILLINGLSEY FORD, INC. and.)

Defendants.)

FILED
MURRAY COUNTY, OKLAHOMA

DEC 02 2020

CHRISTIE PITTMAN, Court Clerk
By DW Deputy

PETITION

Patricia Darlene Hodge, for her Petition, states as follows.

1. Ms. Hodge is a citizen and resident of Mill Creek, in Johnston County, Oklahoma.
2. Defendant Ford Motor Company is Delaware corporation with its principal place of business in Michigan.
3. Billingsley Ford Ardmore, is a limited liability company with its principal place of business in Oklahoma, and one or more of its owners is an Oklahoma citizen. Billingsley Ford, LLC is a limited liability company with its principal place of business in Oklahoma, and one or more of its owners is an Oklahoma citizen. Billingsley Ford, Inc. is an Oklahoma

corporation with its principal place of business in Oklahoma. All three entities operate, or own, the Billingsley Ford dealership in Ardmore, Oklahoma; they will be collectively referred to as "Billingsley Ford."

4. In approximately May 2013, Ms. Hodge purchased a 2011 Ford Fusion automobile from Billingsley Ford; at the time, the car was still under warranty and the warranty was transferred to Ms. Hodge.
5. On December 5, 2018, while driving the Ford Fusion in Sulphur, Oklahoma on West Broadway Street, the air bags suddenly and violently deployed for no reason. Ms. Hodge's Ford Fusion did not collide with any other vehicle or any other object; rather, the airbags spontaneously deployed for no reason.
6. The air bags blocked Ms. Hodge's view of the road and she unknowingly drove off the road and into the side of the IBC bank building on West Broadway.
7. As a result of the accident, Ms. Hodge broke her neck, her back, her left arm and both legs, and had to have her spleen and part of her bowel removed. She suffered 6 surgeries, and has regained a limited ability to walk. Ms. Hodge's total medical bills exceed \$2 million.

Count 1: Manufacturer's Products Liability (against Ford Motor Company)

8. Plaintiff realleges paragraphs 1-7.

9. Ms. Hodge's injuries were the result of a defect in the 2011 Ford Fusion manufactured and sold by defendant Ford Motor Company which rendered the vehicle unreasonably dangerous to a person like Ms. Hodge who uses, consumes or might reasonably be expected to be affected by the 2011 Ford Fusion.
10. The defect in the 2011 Ford Fusion was due to negligent manufacture and design of the 2011 Ford Fusion by the Ford Motor Company.
11. The Ford Motor Company failed to adequately design, manufacture, and inspect the 2011 Ford Fusion, and failed to inform the ordinary consumer of the precautions necessary to avoid its dangerous characteristics.
12. Ford Motor Company designed the 2011 Ford Fusion to use a Takata air bag, and Ford Motor Company installed a Takata air bag in the 2011 Ford Fusion.
13. Among other defects, the 2011 Ford Fusion had a Takata air bag that was susceptible to developing leaks by which moisture could penetrate the air bag detonation device.
14. The air bag operates by detonating an explosion of volatile chemicals; the internal explosion rapidly creates fumes that inflate the air bag, and power of this explosion fills the air bag in a fraction of a second. However, according to a May 18, 2015 report from Takata:

“The bat wing-shaped propellant wafers in some of the subject inflators may experience an alteration over time, which could potentially lead to over-aggressive combustion in the event of an air bag deployment.”

That report goes on to explain that the cause of the “over-aggressive combustion” (or explosion) is a leaking seal in the air bag device, and the admission of moisture through that leak is a root cause of the “over-aggressive combustion.” The Takata report states:

“It appears that the inflator ruptures have a multi-factor root cause that includes the slow-acting effects of a persistent and long-term exposure to climates with high temperatures and high absolute humidity. Exposure over a period of several years to persistent levels of high absolute humidity outside the inflator, combined with the effects of thermal cycling [alternately heating and cooling] may lead to moisture intrusion in some inflators by means of diffusion or permeation.”

15. The Tanaka report explains that when moisture (from the air, or otherwise) penetrates the leaking seal and contacts the explosives inside the device, an extra powerful explosion becomes possible. The report explains:

“... certain inflators made by Takata are adversely affected by three factors – all of which contribute, and are required to be present, in order to cause rupture when initiated.

These factors are:

- The presence of press phase-stabilized ammonium nitrate (PSAN) propellant without moisture-absorbing desiccant
- Long-term exposure to repeated high-temperature cycling in the presence of moisture, and
- An inflator assembly that does not adequately prevent moisture intrusion under conditions of high humidity.”

16. All these factors were present in Oklahoma: the phase-stabilized ammonium nitrate was the explosive in the air bag device; the climate in

Oklahoma is humid, and it cycles between hot and cold, and during all the seasons of the year, and these air bags had the leaking seal that did not prevent moisture intrusion. Accordingly, Takata recommended a recall of:

“... vehicles sold in or ever registered in any part of ... Oklahoma ... and containing subject inflators manufactured between the start of production and December 31, 2011.”

17. This 2011 Ford Fusion was manufactured between “the start of production and December 31, 2011.”

18. This constitutes a “defect” in the 2011 Ford Fusion. Thus, the Takata report states:

“Description of defect.

As a result of the developments and circumstances described below and in section 4 above, Takata has determined that a defect related to motor vehicle safety may arise in some of the subject inflators.”

19. Such a defect did arise in the inflator inside of Ms. Hodge’s 2011 Ford Fusion.

20. The 2011 Ford Focus has not had any changes or service work done to the air bag system since it was sold. The air bag system remained in the same condition at the time of the accident without any alteration or change.

21. As a result of the defect, the inflator inside of Ms. Hodge’s 2011 Ford Fusion did explode and rupture and cause the air bags to deploy for no reason. This blocked Ms. Hodge’s view as she was driving the 2011 Ford Fusion, and caused the unknowing collision with the bank building.

22. As a result, Ms. Hodge has suffered medical bills in excess of \$2 million, and has endured the pain and suffering of the initial injuries, the 6 surgeries, the removal of her spleen and part of her bowel, and her ongoing inability to walk as she could before the accident, and without pain.

Count 2: Negligence (against Ford Motor Company).

23. Plaintiff realleges paragraphs 1-21 above.

24. In addition to constituting a defect, Ford Motor Company's design and manufacture of the 2010 Ford Fusion, by incorporating a Takata air bag was negligent.

25. In addition, Ford Motor Company negligently failed to warn Ms. Hodge about the dangers of Takata air bags even though they were known to Ford Motor Company to be defective before Ms. Hodge purchased this 2011 Ford Fusion in approximately May 2013.

26. This negligence included Ford's knowledge of the long history of Takata air bags defects when it installed one in Ms. Hodge's car in 2011, and in 2013 when Ms. Hodge bought this car, and in 2018 when Ms. Hodge's accident occurred. This included the following history according to the website of the National Highway Traffic Safety Association. <https://www.nhtsa.gov/sites/nhtsa.dot.gov/files/documents/1>

20916-fact sheet-takata recall history and key terms-tagged.pdf,

which states in part:

- “In November 2008, Honda issued the first recall for Takata drive side inflators with improperly manufactured propellant wafers. Due to manufacturing errors, these inflators can rupture when activated.”
- “In April 2013, Takata filed a defect report stating that certain passenger side airbag modules may rupture as a result of manufacturing errors that are aggravated by exposure to hot and humid environments.”
- “In May 2015, after pressure from NHTSA and based on the results of testing, Takata determined that a defect may exist in some of its air bag inflators leading to nationwide recall of approximately 22 million inflators . . .”
- “On November 3, 2015, NHTSA issued two orders:
 - The Coordinated Remedy Order established a coordinated remedy recall program . . .
 - The Consent Order prohibited Takata from entering into any new contracts for the supply of a PSAN inflator. It also provided a schedule by which Takata must phase out production of non-dessicated PSAN inflators, and a schedule by which Takata must either (i) prove that its unrecalled PSAN inflators are safe; or (ii) recall those inflators.”

- “On May 4, 2016, NHTSA announced a further recall expansion, agreed to by Takata, based upon new scientific data provided by three independent testing groups and reviewed by NHTSA and its expert. The expansion covers an estimated 35-40 million inflators . . .”

27. According to a U.S. Department of Justice new release, on January 13, 2017, Takata Corporation pleaded guilty to wire fraud and agreed to pay \$1 billion in criminal penalties stemming from the company’s fraudulent conduct in relation to sales of these defective air bags. <https://www.justice.gov/opa/pr/takata-corporation-agrees-plead-guilty-and-pay-1-billion-criminal-penalties-airbag-scheme> .

28. This history of defects, and endangerment of American consumers, continues. Last week, on November 24, 2020, NHTSA ordered General Motors to recall 6 million vehicles because they had Takata air bags. <https://www.cnet.com/roadshow/news/us-orders-gm-to-recall-6-million-chevy-gmc-and-cadillac-suvs-for-takata-airbag-issues/>

29. Ford Motor Company knew, or should have known about all these facts but did not disclose them to Ms. Hodge. This constitutes an additional act of negligence, in addition to the negligent design and manufacture of the 2011 Ford Fusion.

30. As a result of Ford Motor Company's negligence, Ms. Hodge suffered the above-described injuries.

Count 3: Negligence (against Billingsley Ford Ardmore, Billingsley Ford, LLC, and Billingsley Ford, Inc., collectively referred to as "Billingsley Ford").

31. Plaintiff realleges paragraphs 1-29 above.

32. While Billingsley Ford was not the manufacturer of the 2011 Ford Fusion, it did sell the 2011 Ford Fusion to Ms. Hodge in May 2013.

33. In May 2013, any dealer in Ford products, such as Billingsley Ford, knew or should have known that they contained Takata air bags and that they were defective.

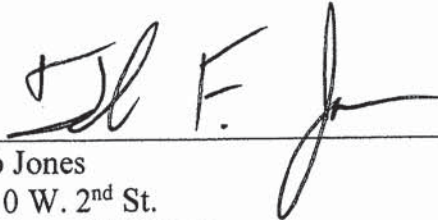
34. In May 2013, at the time Billingsley Ford sold the 2011 Ford Fusion to Ms. Hodge, it knew, or should have known that it contained a Takata air bag, and that Takata air bags were by then known to have defects, as set forth above and specifically in paragraph 25 above.

35. As a result of Billingsley Ford's negligence, Ms. Hodge suffered the above-described injuries.

WHEREFORE, Plaintiff Patricia Darlene Hodge prays for judgment against Ford Motor Company on Counts 1 and 2 in an amount in excess of \$10,000, together with her costs, attorney fees and interest, and Plaintiff Patricia Darlene Hodge further prays for judgment against Billingsley Ford Ardmore,

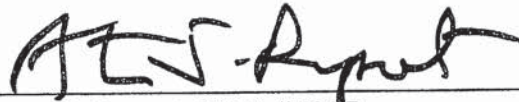
Billingsley Ford, LLC, Billingsley Ford, Inc. on Count 3 in an amount in excess of \$10,000, together with her costs, attorney fees and interest.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'J. F. Jones', written over a horizontal line.

Fob Jones
1010 W. 2nd St.
Sulphur, OK 73086

and,

A handwritten signature in black ink, appearing to read 'A. J. Rupert', written over a horizontal line.

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